RE. PROCEDURE FOR JUDGES' APPOINTMENTS

SHRI RAM JETHMALANI (Maharashtra): Sir, the Bar of this country...

THE MINISTER OF STATE IN THE MINISTRY OF CIVIL AVIATION AND THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRIMATI JAYANTHI NATARAJAN): Sir, is Mr. Jethmalani there in the House.

THE VICE-CHAIRMAN (SHRI TRILOKI NATH CHATURVEDI): He is very much in the House. Why have you doubts about it?

SHRI RAM JETHMALANI: She has a reason to doubt. She sees me so rarely as I see her rarely.

The Bar, honest litigants, individuals and groups committed to human rights and, by and large, Judges of ability and integrity, are deeply concerned with the sword of Democles which corrupt politicians keep hanging over their heads. The hated sword is the threat of the executive to resume control over appointment, transfer and dismissal of Judges which, for the last couple of years, is almost exclusively vested in the judiciary. The system has worked well and there has been no serious grievance about the actual working of the system. Yet, it is recognised that there are theoretical objections even against the present system, which objections might become highly credible in some possible scenario, which cannot be ruled out for all times. The Bar and the intellectuals of this country have, therefore, suggested that some third method should be evolved to eliminate the evils of both the systems, one which was tried and overthrown and one which exists today. Even in the *Gupta case of 1982*, the then learned Chief Justice had suggested that this power must be vested in a collegium or a plurality of persons. This proposal has been carefully examined and it is the near unanimous opinion in the country that the powers must be vested in a Judicial Commission.

Separation of the judiciary from the executive has been a plank of the freedom movement and is one of the Directive Principles enshrined in Article 50 of the Constitution of India. If this Article is to be a reality, the influence of executive on judicial appointments and Judges must be totally eliminated and confined purely to the formal and ceremonial part. It is suggested that this Commission should consist of representatives of judiciary, executive, the opposition parties, the organised bar, social worker and the academic world of law. Private Members Bills have been introduced and are lying in cold storage. Government is also committed to this proposal through the statements of the present Law Minister himself made only in the last session of Parliament.

I wish to draw the attention of this hon. House to this very important and live issue and I would like to specially mention that a Judicial Commission Bill should be promptly introduced and passed. The matter does not brook any delay. I do wish to express my distress that ocassionally reverting to the pre-1982 model has been mentioned in some quarters. This unfortunate and must be nipped in the bud.

SHRI S. RAMACHANDRAN PILLAI (Kerala): Sir I associate myself with the views expressed by my learned friend.

SHRI HANSRAJ BHARDWAJ (Madhya Pradesh): Sir. I grateful for you kind of indulgence.

I agree with our senior colleague, Shri Ram Jethmalani, that Judicial independence is the should of democracy. From all sides of the House we should support judicial independence — judicial independence both at the time of appointments as well as post-appointments. About two months ago I had said that this matter after the debate in the Constituent Assembly has not been debated in the country. I requested some senior collea-

gues of mine that this is an issue where we should not have any prejudice or any party approach.

Firstly, we should discuss this matter in all sections of the Bar and thereafter we should come to a conclusion whether we would like to have a horrendous system like the United States where Judges are interrogated in the Senate Committee or the one like we have in England where the Lord Chancellor recommends appointment of Judges to Her Majesty, the Queen. This is not a matter where we can hasten the Government into some sort of a decision. If there are shortcomings they are shortcomings of human beings, not of the system. What Dr. Ambedkar had suggested has been elaborated. pandit Nehru, Sardar Patel, Rajendra Babu, they were all eminent scholars of law and leaders of the Bar in their own right. So, I am sorry to say that the Bar is totally divided.There is a myopic vision with which the Bar works. We would like this issue to be discussed in the public because if we erode the judicial independence by anything I do not know how a commission will function. These retired Judges are having a keen desire to come back and govern the judiciary. Let us not do it in a haste. A sitting Chief Justice is entitled to have his own prominence. Therefore, while supporting the hon. Member, I would like to say that a national debate on this subject should begin. Therer should be no pressure on the Government to immediately bring some sort of legislation which will not be healthy for the functioning of democracy.

SHORT DURATION DISCUSSION

Police Firing on Dalits in Mumbai and Atrocities Committed on Them in Other Parts of Maharashtra

श्री सुशीलकुमार संभाजीराव शिंदे (महाराष्ट्र): उपसभाध्यक्ष महोदय, मैं नियम 176 के जरिये मुम्बई में हुई पुलिस फायरिंग जहां पर महाराष्ट्र सरकार ने दलितों की हत्या की और जहां एट्रोसिटीज़ आज भी बढ़ती जा रही हैं, इस विषय पर चर्चा शुरू करना चाहता हूं। हम भारतवर्ष की स्वाधीनता का 50वां वर्ष मनाने जा रहे हैं। महात्मा गांधी जी ने कहा था कि जब हमें स्वाधीनता मिलेगी, जब हमारी प्रजासत्ता बनेगी तो हमारी जो इच्छा है कि दलित वर्ग जो दिखता नहीं है अन टू लॉस्ट, उसको हम इस देश में आगे ला कर दिखायेंगे और सामर्थवान बनाएंगे। आज जब हम स्वाधीनता का 50वां वर्ष मनाने जा रहे हैं, इसी साल में मुम्बई में एक शर्मनाक घटना महाराष्ट्र सरकार ने की है जिसमें 11 दलितों की हत्या की है। देश में ऐसा आज तक कहीं भी नहीं हुआ कि दलितों की हत्या केवल इस कारण हो गई क्योंकि वह इकट्ठा हो गये। महोदया, 11 जुलाई की सुबह का वक्त था, छः-साढ़े छः बजे थे। जिस जगह यह घटना हुई रमाबाई अम्बेडकर नगर घाटकोपर और विकरोली के बीच में है। रमाबाई नगर के सामने ईस्टर्न एक्सप्रेस हाईवे है। रमाबाई अम्बेडकर नगर में कई सालों से दलित वर्ग के लोग रहते हैं। वहां जो दलित वर्ग के लोग हैं, उनकी संख्या एक लाख से ज्यादा है। यह ठीक है कि वहां दूसरी कई जातियों के लोग भी रहते हैं लेकिन ज्यादातर वहां दलित वर्ग के लोग रहते हैं। बड़ा सेंसेटिव एरिया है। देहात से आए हुए दलित मुम्बई में अपना पेट भरने के लिए आते हैं। यह एक ऐसा वर्ग है जो पेट भरने के लिए आते हैं लेकिन अपने हकों के लिए हमेशा जागरूक रहते हैं। महात्मा गांधी जी और बाबा साहब डा० भीमराव अम्बेडकर ने जो हमें पढ़ाया है, सिखाया है कि हम चाहे गरीब हों, दलित हों लेकिन हम स्वाभिमान नहीं बेचना चाहते। 11 तारीख को सुबह 6 बजे डा० बाबा साहब अम्बेडकर की मूर्ति को चप्पलों की माला डाली गयी। जो वर्ग जो एक लाख लोग वहां रहते थे उनमें सभी साथी थे—सरकारी नौकरी करने वाले, कुछ छोटे छोटे अपनी दुकानें चलाने वाले—ये सुबह 5 बजे से अपना काम करते रहे हैं और अपने अपने काम के लिए जाते हैं। वहां एक पुलिस स्टेशन भी है स्टेचू के नजदीक। लेकिन 11 तारीख को सुबह 5 और 6 के बीच में कभी तो यह माला डाली गयी और सुबह 6 बजे से वहां सब दलित वर्ग इकट्ठा होने लगा .और उन्होंने यह मांग की कि डा० बाबा साहब अम्बेडकर को जो यह जूतों की माला डाली है यह किसने डाली है इसका शोध होना चाहिए। उन्होंने पुलिस कंप्लेंट की। नजदीक की पुलिस चौकी में जाकर उन्होंने रिपोर्ट कर दी और रिपोर्ट करने के बाद भी वहां पुलिस नहीं आयी। एक अकेली चौकी में यह पुलिस रहती है। उपसभाध्यक्ष जी, मैं यह बताना चाहता हूं कि जो भी आपके सेंसिटिव एरिया होते हैं और महाराष्ट्र में ये कई जगह हैं, यहां बड़ी